

Remarks

The Applicants thank the Examiner for the courtesy shown during the telephonic interviews on July 13 and July 18, 2005. The Applicants' representatives and the Examiner discussed several proposed new claims and various prior art methods. In accordance with the Examiner's helpful suggestions, the Applicants have amended the application to include new independent claim 41.

For the reasons set forth below, it is respectfully submitted that new claim 41 and its dependent claims 42-49 are patentable over the prior art of record because the claimed method recites several novel and non-obvious steps. In addition, the Declarations of Art Delaurier, Chris Marshall and Grant Whitmore accompany this amendment. The Declarations establish that the invention has enjoyed remarkable commercial success, that the commercial success is attributable to the claimed steps, and that the claimed steps represent a significant advancement in the industry that would not have been obvious to one skilled in the art at the time the invention was made.

Claim Rejection under 35 U.S.C. §101

Claims 1-21 and 24-36 have been rejected as allegedly drawn to non-statutory subject matter. The Applicants disagree that the claimed subject matter is outside the scope of 35 U.S.C. §101. However, claims 1-21 and 24-36 have been cancelled in order to expedite allowance of the application. Because the claims have been cancelled, the rejection is now moot. Reconsideration and withdrawal of the rejection under 35 U.S.C. §101 is respectfully requested.

Claim Rejections under 35 U.S.C. §§102 and 103

Claims 1-40 have been rejected as allegedly anticipated by or obvious over a Declaration submitted by the Examiner ("Fisher"). Although the Applicants respectively disagree with the merits of the rejections, claims 1-40 have been cancelled in order to expedite allowance of the application. Thus, reconsideration and withdrawal of the rejections under U.S.C. §§102 and 103 is respectfully requested.

New Claims

New claims 41-49 have been added to the application. Independent claim 41 is directed to a method of generating sales leads as a service for one or more vehicle dealerships that are not otherwise affiliated with the service. The preamble of the claim alone distinguishes this invention over the activities described in Fisher. Fisher describes a system in which the sales leads are generated by an employee of a vehicle dealership, not by a service that is non-affiliated with the dealership.

Fisher also fails to disclose several of the elements affirmatively recited in claim 41. Fisher does not describe or suggest the step of maintaining a website, let alone a website that is maintained independently of the one or more dealerships. Nor does Fisher describe or suggest the step of maintaining one or more processors that perform the various steps recited in the claim. Among the steps performed by the claimed processors are those relating to receiving information concerning a first vehicle and contact information of the consumer. In addition, the processor determines the estimated value of the first vehicle independently of the one or more dealerships and, after receiving the consumer's contact information, provides the estimated value over the computer network to the consumer such that it appears to the consumer that the estimated value has been generated by an entity that is independent from and non-affiliated with the one or more dealerships. Still further, the processors actively transmit the consumer's contact information and the estimated value to the one or more dealerships as a sales lead. Fisher fails to describe or suggest a processor that performs any of these steps.

New claim 41 is also distinguishable from other prior art references, which were discussed during the interviews. In light of the helpful comments provided by the Examiner, the Applicants believe that the prior art closest to the system of claim 41 is the Carmax website and online classified ads. Carmax is an online service for buying and selling cars. As a preliminary matter, it is noted that the Applicants can only comment on the features presently found on the Carmax website. Because it is unknown to the Applicants when the various features found on the Carmax website were first made public on the Internet, the Applicants do not admit that any of the subject matter discussed herein concerning the Carmax website constitutes prior art.

According to the present version of the Carmax website, the user can search for vehicles and then visit the physical location to view and/or test drive a vehicle of interest. The website

also indicates that Carmax will buy a user's car. The website instructs the user to bring his or her car to Carmax in order to receive a free appraisal. In addition, the Carmax website includes a link to the "Kelly Blue Book™ Value Estimator". By following the appropriate links, the user is taken to the Kelly Blue Book™ website. On that site the user can input the vehicle information and receive an estimated trade-in value for his or her car.

The present invention is clearly distinguishable from the system of Carmax. As recited in claim 41, the present invention generates a sales lead for one or more vehicle dealerships that are not otherwise affiliated with the service. The sales lead is generated by offering to provide the consumer with an estimated value of the consumer's vehicle. According to the invention, the consumer must provide the consumer's contact information before the estimated value is provided. This contact information is then actively transmitted to the one or more dealerships as a sales lead. Carmax does not describe or suggest these steps. Although the Kelley Blue Book link on the Carmax website is capable of providing an estimated value for a trade-in, there is no requirement for the consumer to input or otherwise provide contact information before receiving the estimated value. Nor does Carmax provide any suggestion to collect consumer information in exchange for providing an estimated value.

Moreover, because Carmax does not require that the consumer provide contact information before providing the estimated value, it cannot use information obtained in that way as a sales lead. In addition, the Carmax website does not describe or suggest transmitting to one or more dealerships the customer's contact information as a sales lead, let alone customer contact information that was obtained in exchange for providing an estimated value. Instead, Carmax merely instructs the user to contact one of the physical locations to obtain a trade-in value of the consumer's present car or to set up an appointment to see a new car that he or she may be interested in purchasing.

With respect to online classified ads, the Applicants are familiar with systems such as AutoTrader.com®. Such systems generally charge a fee for a user to post an advertisement showing or describing a car he or she wishes to sell. A second user, who wishes to purchase a car, can search the system and find the advertisement if the car meets the second user's criteria. Like Carmax, the AutoTrader system includes a link to a vehicle estimator service, specifically, Nada Guides.

If a potential buyer locates an online classified ad describing a car he or she wishes to learn more about, the buyer can contact the seller using the seller's information provided in the classified ad. Commonly, the potential buyer will contact the seller to learn details regarding the car and begin negotiations. At some point, the potential buyer will provide his or her contact information directly to the seller.

Online classified ads, such as those associated with AutoTrader, are also clearly distinguishable from the present invention. Like Carmax, an online classified ad does not require that the consumer provide his or her contact information before being given an estimated value for his or her vehicle. Therefore, an online classified ad does not describe or suggest the step of using the consumer's contact information, which was collected in exchange for providing an estimated value, as a sales lead. The online classified ad also does not perform the step of transmitting contact information obtained in this manner as a sales lead to an independent vehicle dealership.

Thus, neither Carmax nor the online classified ads describe the step of offering to provide the consumer with an estimated value of the consumer's vehicle, wherein the consumer must provide the consumer's contact information before the estimated value is provided. In addition, neither reference describes or suggests transmitting contact information obtained in that way to one or more independent dealerships as a sales lead. Because neither reference shows, describes or suggests these steps, the invention according to claim 41 is patentable over the references both individually and in combination.

The method recited in claim 41 has been successfully commercialized by Veretech, LLC, the Assignee of the present application. The system that Veretech operates in accordance with the steps of claim 41 is called Intelliprice or the Intelliprice service. As explained in the enclosed Declarations of Art Delaurier and Grant Whitmore, claim 41 recites all of the significant features that have contributed to the success of Intelliprice. The features of the commercial manifestation that contribute to its success include the claimed steps of collecting contact information for the consumer before providing an estimated value for the consumer's vehicle. The provision of the estimated value is done in such a way that the consumer knows that the estimated value was generated by an entity that is independent from and non-affiliated with the one or more

dealerships. (Delaurier Paragraph 8.) The consumer's contact information is then transmitted to one or more dealerships as a sales lead. (Delaurier Paragraph 9.)

Since launching the commercialized system having these novel features, Veretech has obtained over one thousand subscribers, including Ford, Mitsubishi, Kia, Hyundai, Volkswagen, Consumer Guide, AutoNation and Gulf States Toyota. (Delaurier Paragraphs 12, 13.) Last year the system generated gross revenues of \$3.2 million. These revenues are projected to increase to \$4.3 million for 2005. (Delaurier Paragraph 15.)

Because of the commercial success enjoyed by the novel Intelliprice service, several companies have begun to offer similar products. (Delaurier Paragraph 16.) In fact, this application has been made special based on infringing activity occurring in the market. (*See*, Decision on Petition to Make Special dated November 30, 2004.)

The Intelliprice service generates about 720,000 sales leads per year. (Delaurier Paragraph 17.) In addition, the sales leads generated by Veretech are of very high quality and generate a high realization rate of approximately ten percent, meaning that about ten percent of the sales leads generated result in a sale. (Delaurier Paragraph 18, Whitmore Paragraph 8, *infra*.) This unusually high realization rate is made possible by the unique way in which this invention operates. By generating sales leads based on contact information of consumers looking for estimated values of possible trade-ins, a large proportion of serious potential buyers is identified. Thus, the leads generated by this invention are of higher quality than an average lead from another source. Because of the invention's ability to identify serious buyers, the purchase of sales leads generated by the method of this invention is an excellent value for dealerships (*i.e.*, customers of Veretech). The large percentage of leads that result in sales decreases the cost of buying leads when viewed on a per sale basis. In fact, the cost for the dealerships per sale is only about \$60 as compared to \$450 in average marketing costs throughout the industry per vehicle sold. (Delaurier Paragraph 18.)

Because of the unique ability to generate high quality leads and the low cost to dealerships, the commercial manifestation of the invention has enjoyed remarkable commercial success. The leads generated by the present invention translate into about \$1.8 billion in sales per year for dealerships purchasing the leads. (Delaurier Paragraph 19.) By offering excellent value to dealerships and the potential for large sales dollars from leads generated by this

invention, Veretech has successfully captured over ninety percent of the market for sales leads based on trade-ins. (Delaunier Paragraph 20.) In terms of total Internet leads for car sales, over ten percent of dealerships that buy such leads purchase them from Veretech. (Delaunier Paragraph 21.)

For the reasons explained above and in more detail in the Declaration of Art Delaurier, the novel features recited in claim 41 are responsible for an extremely successful commercial manifestation of this invention.

The Declarations of Chris Marshall and Grant Whitmore further explain the differences between this invention and the prior art, as well as why those differences contribute to the success of Veretech's commercialized embodiment. As explained in his Declaration, Mr. Chris Marshall is the manager of relationship marketing at Mitsubishi Motors North America. Mitsubishi Motors North America has used the Intelliprice service since February 5, 2003. (Marshall Paragraph 2.) (The Intelliprice service discussed in Mr. Marshall's Declaration is that which has been commercialized by Veretech – *see*, Delaurier Paragraphs 3, 4, Whitmore Paragraph 3.)

The Intelliprice service now contributes measurably to the overall sales efforts of Mitsubishi Motors North America. (Marshall Paragraph 5.) A valuable feature of the Intelliprice service is that it provides a consumer with an estimated value for the trade-in in such a way that it appears to the consumer that the estimated value is generated by a service which is non-affiliated with the dealership that will ultimately purchase the trade-in. (Marshall Paragraph 6.) As confirmed by Mr. Marshall, the coupling of a trade appraisal that the consumer knows was independently generated to a lead generation event was a unique process offered by Intelliprice that had never been done before in the industry. (Marshall Paragraph 7, 8.)

This invention represents an advancement in the field that would not have been obvious to one skilled in the art at the time the invention was made. As explained by Mr. Marshall, it was not apparent to those in the industry to generate sales leads based on the provision of independently generated appraisals. (Marshall Paragraph 9.) The claimed feature that it appears to the consumer that the estimated value was generated by a service that is independent and non-affiliated with the dealership has contributed significantly to the commercial success of the Intelliprice service. (Marshall Paragraph 10.)

As explained in the Declaration of Grant Whitmore, Mr. Whitmore is the Vice President and General Manager of Consumer Guide.com, a service which offers consumers research tools for the automotive industry as well as for other products and services. As explained by Mr. Whitmore, Consumer Guide has been a subscriber of the Intelliprice service for over three years. (Whitmore Paragraph 2.)

The Intelliprice service has achieved exceptional consumer acceptance; and Consumer Guide has generated a steady stream of revenue using the system. (Whitmore Paragraph 4.) Consumer Guide routinely generates thousands of leads each month using the Intelliprice service. (Whitmore Paragraph 7.) Mr. Whitmore also provides reasons why he believes the Intelliprice service is so successful in converting the leads that it collects into closed sales. Among the reasons is the ability of this invention to generate the sales lead in exchange for providing an estimated value from a source known to be independent. Because the consumer knows that the estimated value was provided from an independent source, the consumer is likely to feel comfortable with the sales transaction offered by the dealership. (Whitmore Paragraph 9.)

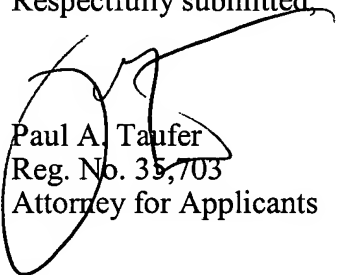
Mr. Whitmore also explains that the Intelliprice service is significantly different than any other method of generating leads prior to late 2004. Specifically, this invention and its commercial manifestation provide a specific consumer benefit in the form of a reliable estimated value for a trade-in from an independent entity that is not affiliated with the dealership. Prior to the Intelliprice service, no other product had generated sales leads by collecting consumer information in exchange for the estimated value that the consumer knows was generated by an independent source. (Whitmore Paragraph 11.)

Mr. Whitmore also explains how the present invention differs from conventional online estimators. Specifically, the generation of a sales lead using the consumer's contact information collected in exchange for the independently generated estimate was completely unknown at the time the Intelliprice service was launched. (Whitmore Paragraph 13.) Mr. Whitmore further explains that this method of generating a sales lead was only made possible by the realization of the present inventors that people, who are seeking unbiased, independent estimated values for their vehicles, represent probable purchasers of new vehicles. Thus, this invention is a first of its kind system for collecting contact information for those vehicle owners and using that contact information for generating sales leads. (Whitmore Paragraph 13.)

The Declarations of Art Delaurier, Chris Marshall and Grant Whitmore clearly establish that the invention recited in claim 41 has, in fact, been successfully commercialized in the form of the Intelliprice service. The excellent commercial success enjoyed by the Intelliprice service is attributable to the novel features set forth in claim 41. Specifically, the step of providing a consumer with an estimated value for his or her trade-in vehicle in such a way that it appears to the consumer that the estimated value has been generated by an entity that is independent from and non-affiliated with a dealership in exchange for collecting contact information of the consumer has never before been performed or suggested. Moreover, the affirmative step of actively transmitting the contact information so collected to a dealership as a sales lead has never been performed or suggested in the industry before. Therefore, the invention recited in claim 41 is novel and non-obvious over the prior art.

For the reasons set forth above, and for those discussed in greater detail in the Declarations of Art Delaurier, Chris Marshall and Grant Whitmore, the Applicants respectfully submit that the invention is patentable. It is respectfully requested that each of the rejections and objection set forth in the last Official Action be reconsidered and withdrawn. A Notice of Allowance is solicited. If the Examiner believes that further minor amendments or correction as to matters of form would advance the case, the Examiner is invited to telephone the Applicants' undersigned representative.

Respectfully submitted,



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